

Official Amendment
Serial No. – 10/038,274
Docket No. – UVD 0280 PA

REMARKS

Claims 1, 3-8, 10-48, 123, 124, 126-128, 130-132, 135-148, and 151-154 are pending in the present application. Reexamination and reconsideration are requested in light of the accompanying remarks.

Applicants acknowledge the examiner's statement that the terminal disclaimer filed in the case overcomes the obviousness type double patenting rejection.

Applicants also acknowledge the examiner's statement that the prior art rejection has been overcome by the amendment of claims 1, 123, 148, and 151.

The rejection of claims 1, 3-8, 10-48, 123, 124, 126-128, 130-132, 135-148, and 151 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement is respectfully traversed. According to the examiner, "The new claim limitation, 'with the proviso that the inorganic valence stabilizer is not a vanadate or a tungstate' added to each of independent claims 1, 123, 148 and 151 does not find support in the application as filed and therefore is new matter."

However, contrary to the examiner's position, the proviso that the inorganic valence stabilizer is not a vanadate or a tungstate does find support in the application as filed. The application clearly discloses a broad class of compounds, inorganic valence stabilizers, and identifies numerous specific inorganic valence stabilizers which can be used, including vanadates and tungstates, among others. See p. 26, line 14 to p. 28, line 16; p. 134, line 11 to p. 135, line 20; as well as claims 10-11. If alternative elements are positively recited in the specification, they may be explicitly excluded in the claims. MPEP §2173.05(i). The specification, which described the whole class of inorganic valence stabilizers, necessarily described the part that remained after removing the two specifically disclosed species, vanadates and tungstates. Therefore, there is written description support for the proviso in the application as filed.

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CONCLUSION

Applicants respectfully submit that, in view of the above remarks, the application is now in condition for allowance. Applicants respectfully request that claims 1, 3-8, 10-48, 123, 124, 126-128, 130-132, 135-148, and 151-154 be passed to allowance.

If the Examiner has any questions or comments regarding the present application, he is invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,
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